

3037795–SLM/JPC

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

ELK GROVE HOSPITALITY-EAST, LLC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 18-CV-4666
	)	
NATIONWIDE MUTUAL INSURANCE	)	
COMPANY AND AFFILIATED	)	
COMPANIES, DEPOSITORS INSURANCE	)	
COMPANY	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

NOW COME the Defendants NATIONWIDE MUTUAL INSURANCE COMPANY and DEPOSITORS INSURANCE COMPANY (collectively referred to as “Defendants”), by and through their attorneys Sulema L. Medrano and Joseph P. Carlasare of SMITHAMUNDSEN LLC, and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, remove this action to the United States District Court for the Northern District of Illinois, Eastern Division, and in support thereof, states as follows:

**BACKGROUND**

1. The movants' Notice of Removal is based upon subject matter jurisdiction conferred by diversity of citizenship, as established in 28 U.S.C. § 1332.

2. At all times relevant, Defendant Depositors Insurance Company is an Iowa corporation with its principal place of business at 1100 Locust Street, Des Moines, Iowa 50391-1100. Thus, Depositors Insurance Company is a citizen of Iowa. See Depositors' listing on the Iowa Secretary of State website:

[https://sos.iowa.gov/search/business/\(S\(tm3gktnaliooxl55g2ghjp45\)\)/summary.aspx?c=S6OgmWw6kmjDvNEK6s6zF1Khe\\_A39o7ZCvnHWnvl9r81](https://sos.iowa.gov/search/business/(S(tm3gktnaliooxl55g2ghjp45))/summary.aspx?c=S6OgmWw6kmjDvNEK6s6zF1Khe_A39o7ZCvnHWnvl9r81) (last visited June 26, 2018); see also printout from Iowa Sec. of State, attached hereto as Exhibit 1.

3. Defendant Nationwide Mutual Insurance Company is an Ohio corporation with its principal place of business at 1 Nationwide Plaza, Columbus, Ohio 43215. Thus, Nationwide Mutual Insurance Company is a citizen of Ohio. See Nationwide's listing on the Ohio Secretary of State website, [https://www5.sos.state.oh.us/ords/f?p=100:7:::NO:7:P7\\_CHARTER\\_NUM:119343](https://www5.sos.state.oh.us/ords/f?p=100:7:::NO:7:P7_CHARTER_NUM:119343) (last visited June 26, 2018); see also Printout from Ohio Sec. of State, attached hereto as Exhibit 2.

4. Upon information and belief and based on the allegations in the underlying Complaint, the Plaintiff, ELK GROVE HOSPITALITY-EAST, LLC (hereinafter "Plaintiff") is an Illinois Limited Liability Company (LLC) with its principal place of business in the State of Illinois.

5. On or about May 23, 2018, Plaintiff filed a Complaint against Defendants in the Circuit Court of Cook County bearing Case # 2018-L-005376. A true and accurate copy of the Complaint is attached hereto as Exhibit 3. Plaintiff's Complaint seeks Monetary Damages exceeding \$50,000, Section 155 Damages, attorney's fees and costs. See Exhibit 3.

### **JURISDICTIONAL BASIS**

6. Defendants, as citizens of Iowa and Ohio, may properly remove the Plaintiff's Complaint claims to Federal Court under 28 U.S.C. § 1441. Section 1441 provides in subsections (a) and (b) that:

(a) Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

(b) Any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties. Any other such action shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the state in which such an action is brought.

28 U.S.C. § 1441 (a), (b).

7. Under this statute, an action originally filed in state court may be properly removed to federal court by a defendant in two situations. First, removal is proper if the case is within the federal court's federal question jurisdiction. And second, where the district court has original jurisdiction, removal is proper if no defendants are citizens of the state where the plaintiff originally filed the suit.

8. In this case, no defendants are citizens of the state where the plaintiff originally filed the suit. Moreover, on the face of Plaintiff's Complaint, they are seeking in excess of \$75,000.

9. Thus, Defendants' timely notice of removal is proper and this matter should proceed in the District court.

10. Also, in compliance with § 1446, a true and original copy of the State court Complaint is attached as Exhibit 3. This is the only pleading in the current case. Additionally, a true and original copy of the process is attached as Exhibit 4.

11. This Notice was filed within (30) thirty days of "the receipt by the Defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based." 28 U.S.C. § 1446(b).

12. As required by 28 U.S.C. § 1446(d), the movants will promptly serve upon the plaintiff's counsel and file with the Circuit Court of Cook County a true and correct copy of this Notice.

13. By removing this action, the Defendants do not waive any defenses available to them.

14. If any question arises as to the propriety of the removal of this action, the movants request the opportunity to present a brief and oral argument in support of their position that this case is removable.

WHEREFORE, the Defendants NATIONWIDE MUTUAL INSURANCE COMPANY and DEPOSITORS INSURANCE COMPANY pray that this Honorable Court retain jurisdiction of the matter pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

Respectfully submitted,

SMITHAMUNDSEN, LLC

By: /s/ Joseph P. Carlasare  
One of the Attorneys for Defendants

Sulema L. Medrano (ARDC #6299490)  
Joseph P. Carlasare (ARDC #6308706)  
SmithAmundsen LLC  
150 North Michigan Avenue, Suite 3300  
Chicago, Illinois 60601  
(312) 894-3200  
(312) 894-3210 – FAX  
[smedrano@salawus.com](mailto:smedrano@salawus.com)  
[jcarlasare@salawus.com](mailto:jcarlasare@salawus.com)